IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4802 OF 2001

Mrs.Massarat Jehun Masood Petitioner

versus

State of Maharashtra Respondent

V.S.Thokal and R.S.Kate, adv. for petitioner.
M.H.Solkar, AGP for R-4.
A.D.Kumbhakoni, adv. for R.1 and 2.
Nitin Jamdar, adv. for R-3.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 17th December 2004

PC :

1. Heard advocates.

2. Petitioner was at the relevant time a Commerce Graduate. She was appointed as an Assistant Teacher in respondent no.1 institution on 27th July 1983. It is clear that she was appointed on the understanding that she would acquire B.Ed. or D.Ed. qualification. It appears that the said qualification could not be acquired by the petitioner, and, therefore, an unqualified teacher could not have been retained by respondent no.1. Accordingly her services came to be terminated by respondent no.2 w.e.f. 30th April 1996.

3. Petitioner preferred an appeal to the School Tribunal being Appeal No.31 of 1996 aggrieved by the aforesaid action.

4. The School Tribunal by the impugned order held that termination of petitioner's services cannot be faulted. Although, the petitioner has been serving from 1983 till 1996, she did not complete her D.Ed. course. It is not even the grievance of the petitioner that sufficient opportunities were not given to her to acquire this qualification by the management. Consequently, the order under challenge upholding the action of respondent no.1 cannot be faulted.

5. Reliance placed by Mr.Kate on a subsequent event of institution of a writ petition by the petitioner in this Court seeking directions to the Education authorities to enable the petitioner to acquire D.Ed. course by correspondence cannot be of any assistance in scrutinizing the legality and validity of order of School Tribunal. The order and direction in that writ petition as modified by Hon'ble Supreme Court and further contempt proceedings cannot be of any assistance to the petitioner, even if the

petitioner has acquired the qualifications in December 2000. It is contended by Mr.Kate that petitioner has acquired all the necessary qualifications and is duly eligible for being appointed as Assistant Teacher.

6. In my view, acquiring all qualifications during pendency of proceedings before the School Tribunal cannot be of any assistance as rightly pointed out by Mr.Kumbhakoni, inasmuch as the Tribunal was considering the question of terminating services of petitioner w.e.f. 30th April 1996. Admittedly, on that date, she lacked requisite qualification. In my view, the termination cannot be said to be causing any stigma because it is only on account of failure to acquire necessary qualifications. There is neither any misconduct alleged nor the termination is on account of any other reason. Therefore, if the petitioner has acquired necessary qualifications, the impugned termination as well as the order of Tribunal cannot constitute a bar for the petitioner to apply for employment and it is for the authorities to consider the same in accordance with law. Leaving all such remedies open to the petitioner the present writ petition is

dismissed.

(S.C.DHARMADHIKARI, J.)